

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LUMEN VIEW TECHNOLOGY LLC,

Plaintiff,

V.

**ADICIO, INC., ADVANCE MAGAZINE
PUBLISHERS INC. AND PENTON MEDIA,
INC.**

Defendants.

[illegible]

1:13-cv-03386-DLC

September 27, 2013

**JOINT DISPUTED CLAIM TERMS CHART
PURSUANT TO LOCAL PATENT RULE 11**

Pursuant to Southern District of New York Local Patent Rule 11 (P.R.) and under the Case Management Plan (“CMP”) adopted by the Court’s Pretrial Scheduling Order of 7/12/2013 (Dkt. 16), Plaintiff Lumen View Technology L.L.C. (“Lumen” or “Plaintiff”) and Adicio, Inc. (“Adicio”), Advance Magazine Publishers Inc. (“AMP”) and Penton Media, Inc. (“Penton”) (collectively, “Defendants”)(collectively, the “parties”) submit this Joint Disputed Claim Terms Chart regarding U.S. Patent No. 8.069,073.

The chart attached as Exhibit A sets forth the claim terms and phrases that the parties request be construed by the Court, as well as each party's proposed construction and cross-reference to each party's identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures under Local Patent Rules 6 and 7. Exhibit A further includes citations to the source of intrinsic and non-expert extrinsic evidence on which the parties currently intend to rely in support of their own proposed constructions or in opposition to the other party's proposed constructions.

As set forth in the Case Management Plan hearing, the parties expect that the Court will take the claim construction on the papers. The parties stand ready to provide

information or oral arguments at a hearing at the Court's convenience. Should the Court schedule a *Markman* hearing, the parties estimate that oral argument would take approximately three hours.

At the present time, the parties reserve the right to amend this Joint Disputed Claim Terms Chart, particularly in the event that a party provides notice of its intent to submit an expert declaration with a claim construction brief, or to the extent that the parties are able to later agree on the construction of any terms. Moreover, Plaintiff reserves its right to amend its Preliminary Infringement Contentions ("PICs"), upon receiving from Defendant's discovery responses as to the operation of Defendant's website, software, products or services of the Findthebest.com platform, as its positions are based upon information reasonably and currently available to Lumen. Plaintiff requested discovery information for review of the operation of Defendant's software in providing the accused service or product on July 31, 2013 and again on Sept. 25, 2013, which has not yet been provided but is expected. Lumen intends to provide amended PICs as part of the discovery process and may then submit changes to the position taken, to add or remove claim terms and phrases that the parties request be construed by the Court.

Defendant objects that Plaintiff "reserve[s] its rights to amend, upon receiving Defendant's discovery responses...and may then submit changes to the position taken, to add or remove claim terms and phrases that the parties request be construed by the Court." Plaintiff has represented to this Court and to Defendant's counsel that its Local P.R. 6 Disclosure of Asserted Claims and Infringement Contentions, served August 30, 2013, is adequate and that it has a good faith basis for alleging infringement. Defendant's Local P.R. 7 Invalidity Contentions were served on September 13, 2013.

Plaintiff's proposed constructions of its patent terms should not depend on or change after receiving additional discovery.

Dated: September 27, 2013

AETON LAW PARTNERS LLP

LEVENTHAL LAW LLP

/s/Damian Wasserbauer/

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Attorney for Defendants Adicio et al.

CERTIFICATION OF SERVICE

This is to certify that on September 27, 2013, a copy of the foregoing JOINT DISPUTED CLAIM TERMS CHART PURSUANT TO LOCAL PATENT RULE 11 was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

By: /s/ Damian Wasserbauer
Damian Wasserbauer (DW3507)

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By: /s/ Joseph Leventhal
Joseph Leventhal